

## Part A

**Report to:** Cabinet

**Date of meeting:** 4 March 2019

**Report author:** Head of Community and Environmental Services

**Title:** External Wall Insulation contract – Procurement exemption note

### 1.0 **Summary**

- 1.1 The council commenced a solid wall insulation programme to privately owned homes in the borough, with external funding from a managing agent, Warmzones (a community interest company who sourced energy company obligation and fine redress monies towards the project).
- 1.2 Warmzones contracted Hamiltons Building Contractors to undertake the works through a framework agreement.
- 1.3 Warmzones went into administration mid contract, leaving works unfinished and sums owing to Hamiltons for completed work. 29 of the 37 properties were completed or started.
- 1.4 Contracts were clear that monies could only be used from the council to facilitate the works through the nominated contractor, Hamiltons for completion of the contract.
- 1.5 Council capital monies were held in retention against completion of the project. The contractor has now invoiced the Council directly for the uncompleted works.
- 1.6 Following clarification and mutual agreement from parties this exemption enables WBC to directly employ Hamiltons to complete (in their entirety) the 29 properties and be paid directly by WBC for this work.
- 1.7 This insolvency process will allow the council to pay the outstanding debt from our existing allocated capital budget to Hamiltons instead of paying to the Warmzones administrators. This cost, dealt with through this exemption, is £51,988 net and replicates the original agreed works cost that would have been paid to Warmzones.

- 1.8 Any future non-started properties will be re-tendered by WBC for future consideration in the normal procurement process.

## 2.0 Risks

- 2.1 There are no identified risks to this exemption based upon the council's procurement procedure.

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (combination of severity and likelihood)
None identified				

## 3.0 Recommendations

- 3.1 That Cabinet notes the Approved Exemption to the Council's Procurement Procedures in relation to External Wall Insulation contract

### Further information:

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### Report approved by:

Alan Gough, Head of Community and Environmental Services

## 4.0 Detailed proposal

- 4.1 Details of the Exemption can be found at Appendix A to this report along with an extract of the Council's Contract Procedure Rules as they relate to Exemptions.

## 5.1 Financial

- 5.1.1 The Shared Director of Finance comments that the scheme will be completed within the original budget and that no additional capital funds are required for this exemption. Funds are being paid to the work contractor directly as opposed to the insolvent funder, which has been agreed through the insolvency process.

## 5.2 Legal Issues (Monitoring Officer)

- 5.2.1 The Head of Democracy and Governance comments that the council engaged a solicitor who has obtained an agreement for the payment to be made directly to the contractor instead of the administrator.
- 5.2.2 The Head of Democracy & Governance comments that under the Council's contract procedure rules exemptions can be agreed in exceptional circumstances. This may apply where a key supplier has gone into Administration or Receivership. The rules require that all exemptions are reported to cabinet and recorded in a central register held by the Corporate Procurement Manager.

### **5.3 Equalities, Human Rights and Data Protection**

- 5.3.1 Not applicable in relation to this item.

### **5.4 Staffing**

- 5.4.1 There are no staffing implications from this report.

### **5.5 Accommodation**

- 5.5.1 There are no accommodation implications from this report.

### **5.6 Community Safety/Crime and Disorder**

- 5.6.1 There are no implications from this report.

### **5.7 Sustainability**

- 5.7.1 There are no sustainability implications from this report.

## **Appendices**

### **Appendix A**

Exemption Record Application incorporating an extract from Watford Borough Council's Contract Procedure in relation to Exemptions and signed approval form dated 1 February 2019.

## **Background papers**

No background papers were used in the preparation of this report